

SENATE BILL 1355

By McNally

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 25; Title 8, Chapter 34; Title 8, Chapter 35; Title 8, Chapter 36 and Title 8, Chapter 37, relative to retirement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-34-301, is amended by deleting the section and substituting instead the following:

(a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of chapters 34–37 of this title are hereby vested in a board of trustees.

(b) The board of trustees may delegate to the state treasurer the duty to carry out the day-to-day operations and responsibilities for the administration of the retirement system, including, but not limited to, complying with all applicable state and federal laws and rules.

SECTION 2. Tennessee Code Annotated, Section 8-34-303, is amended by deleting the section and substituting instead the following:

In the event of death, disability, resignation, or ineligibility of a board member who is a state employee, the board of trustees is authorized to appoint a member from the group represented by the member to fill the member's unexpired term. In the event of the death, disability, resignation, or ineligibility of a board member who was appointed as a teacher trustee or the retired teacher trustee, the speaker of the senate or the speaker of the house of representatives who appointed the member shall appoint a trustee to fill the member's unexpired term.

SECTION 3. Tennessee Code Annotated, Section 8-34-320(b), is amended by deleting the subsection and substituting instead the following:

(b) If the initial order of the administrative judge is appealed to the board of trustees, the executive committee established in § 8-34-322 shall hear the appeal.

SECTION 4. Tennessee Code Annotated, Section 8-34-322, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding this title to the contrary, the executive committee shall have the power to commence litigation or any legal action on behalf of the retirement system. The executive committee shall also have the power to delegate to the state treasurer the authority to respond to, defend, direct the course of, and settle any litigation, legal action, or regulatory proceeding on behalf of the retirement system. The authority may include, but not be limited to, litigation holds, amending pleadings, engaging expert witnesses, discovery, motions, tolling agreements, settlement agreements, waivers, attachments, releases, and stipulations.

SECTION 5. Tennessee Code Annotated, Section 8-34-625, is amended by deleting the section and substituting instead the following:

(a) Subject to the approval of the board of trustees, any member, other than an employee of a political subdivision, who receives temporary disability benefits under a workers' compensation program administered by or on behalf of an employer as defined in § 8-34-101 shall be entitled to establish retirement credit at any time during or after the period of disability.

(b) The member's employing department or agency shall provide certification, in a manner prescribed by the state treasurer, of the period of disability and salary in effect immediately prior to the disability. Contributions by, or on behalf of, the member on the basis of the member's salary in effect immediately prior to the period of disability, plus interest at the rate provided in § 8-37-214, if applicable, shall be remitted to the retirement system in a manner prescribed by the state treasurer.

(c) No member shall be credited with the temporary disability as creditable service at a rate exceeding one (1) year per occurrence of temporary disability.

(d) Participating political subdivisions may adopt the provisions of this section; provided, that the chief governing body of the political subdivision passes a resolution authorizing the provisions of this subsection (d) for the employees and accepting the liability therefor.

SECTION 6. Tennessee Code Annotated, Section 8-36-113, is amended by deleting the section and substituting instead the following:

(a) Notwithstanding § 8-36-111, the board may withhold payment of a member's accumulated contributions and interest or monthly benefit upon:

(1) The filing of criminal charges or a civil suit against a member relating to the member's employment with an employer;

(2) An audit finding from the comptroller of the treasury relating to the member's employment with an employer; or

(3) An affidavit submitted by the employer to the director of the retirement system containing the employee's actions that the employer asserts could constitute a crime.

(b) The board may withhold payment of the member's contributions and interest or monthly benefit until such time as the charges have been dismissed or the charges have resulted in a determination that the member owes money to the employer. Should a member not be charged criminally or civilly, the member may appeal the decision to withhold the member's accumulated contributions and earnings or monthly benefit based on an audit finding or affidavit by submitting an appeal request to the director of the retirement system.

(c) If the service of any member is terminated, for any reason, and such member is found to owe money to an employer participating in the retirement system, the employer shall be entitled to claim from the member's accumulated contributions such amounts as are owed to the employer upon the application to withdraw the member's accumulated contributions. The claim shall be made in writing to the director of the retirement system by the appropriate party of the employer involved and must specify the reason for the claim and the amount involved. After the employer's claim is satisfied from the contributions, the member may withdraw any portion of the member's remaining contributions.

(d) Should the member elect not to withdraw the accumulated contributions, no claim on the contributions shall be enforceable under this section.

SECTION 7. Tennessee Code Annotated, Section 8-36-114, is amended by deleting the section and substituting instead the following:

If any member found to owe funds to an employer participating in the retirement system, within the meaning of § 8-36-113, elects to retire, the member's debt to the employer may be satisfied from the member's monthly benefit.

SECTION 8. Tennessee Code Annotated, Section 8-36-601, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding this section or any other law to the contrary, the amount of survivor benefits payable to a beneficiary under one (1) of the optional allowances provided for in subsection (b) shall not exceed the maximum amount determined under the applicable incidental death benefits regulations of the Internal Revenue Code, unless the retired member's surviving spouse is the member's sole beneficiary. Benefits shall be adjusted as necessary to satisfy those regulations.

SECTION 9. Tennessee Code Annotated, Section 8-36-601(d), is amended by deleting the words “This section” in the first sentence of the subsection and substituting instead the words “Subsection (c)”.

SECTION 10. Tennessee Code Annotated, Section 8-36-923(a), is amended by deleting the language “§ 8-36-403” and substituting instead the language “§ 8-35-403”.

SECTION 11. Tennessee Code Annotated, Section 8-37-108(c), is amended by deleting the subsection and substituting instead the following:

(c) Additional Appointments. In addition to the members appointed pursuant to subsection (a), the treasurer may, at the treasurer’s discretion, appoint two (2) additional members to the investment advisory council. One (1) of the additional members shall be of a racial minority, and the other shall be female. Both members shall have at least five (5) years’ professional experience as a portfolio manager, economist, or investment manager in any field for which investments of Tennessee consolidated retirement system funds are authorized, or as a teacher at the postsecondary level in accounting, economics, finance, or other related field. Any appointment made pursuant to this subsection (c) shall be made with the advice and consent of the board of trustees. The terms of office of the additional members shall be for three (3) years, with the terms beginning on July 1 and ending on June 30 of the appropriate years.

SECTION 12. Tennessee Code Annotated, Title 8, Chapter 37, Part 1, is amended by adding the following as a new, appropriately designated section:

The funds created by this chapter and chapters 34–36 of this title shall be deemed to be the funds of the retirement system and not state funds.

SECTION 13. Tennessee Code Annotated, Section 8-37-502, is amended by deleting the section and substituting instead the following:

(a) Monthly Report of Salaries and Contributions. For the purpose of ascertaining the amount of contributions payable under this chapter and chapters 34–36 of this title, it shall be the duty of the employer on or before the tenth day of each month to transmit to the state treasurer, in the manner prescribed by the state treasurer, the gross salary and amount of contributions deducted, if any, from the compensation of employees and contributions of the employer payable under this chapter and chapters 34–36 of this title during the preceding calendar month. The board of trustees is authorized to promulgate substantive and procedural rules requiring that all or a portion of the information described in § 8-35-105(a) is provided in such manner.

(b) Transmission of Contributions with Monthly Report. At the time of transmitting the information required pursuant to subsection (a) to the state treasurer in the manner prescribed by the state treasurer, the employer shall remit to the state treasurer therewith the amount of contributions due under the applicable provisions of this chapter and chapters 34–36 of this title, and failure to so remit such contributions shall cause the contributions to become delinquent and a liability of the employer.

SECTION 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 15. This act shall take effect upon becoming a law, the public welfare requiring it.